

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JAMES PENNY MEADE, JR.,)	
)	Civil No. 04-1624-MO
Petitioner,)	
)	
v.)	
)	
SHARON BLACKETTER,)	
)	OPINION AND ORDER
Respondent.)	

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MOSMAN, District Judge.

Petitioner brings this habeas corpus action pursuant to 28 U.S.C. § 2254 in which he attempts to challenge four state convictions for Sexual Abuse in the First Degree. For the reasons which follow, the Petition for Writ of Habeas Corpus (#2) is DENIED.

DISCUSSION

The Antiterrorism and Effective Death Penalty Act ("AEDPA") was enacted on April 24, 1996. AEDPA provides that a one-year statute of limitations applies to federal habeas corpus actions filed by state prisoners. Respondent calculates that petitioner allowed 378 untolled days to elapse before filing the current action. Petitioner concedes that this action is untimely, but argues that denying habeas relief on the basis of timeliness violates the Suspension Clause of the Constitution.

The Suspension Clause provides that "[t]he privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Constitution, Article I, Section 9, Clause 2. The Ninth Circuit has held that the one-year limitations period does not constitute a *per se* suspension of the writ. Green v. White, 223 F.3d 1001, 1003 (9th Cir. 2000). Petitioner acknowledges the Ninth Circuit's holding in Green, but asks the court to reject it because "the conclusory nature of this decision ignores the reality facing many

state inmates and fails to take into account their lack of sophistication and awareness of changes in legal procedure." Memo in Support (#13), p. 3.

District courts are bound to follow the precedents of their own circuit. Zuniga v. United Can Co., 812 F.2d 443, 450 (9th Cir. 1987). Because the Ninth Circuit has clearly held that AEDPA's one-year limitation period is not an unconstitutional suspension of the writ, the Petition for Writ of Habeas Corpus is denied on the basis that it is untimely.

CONCLUSION

The Petition for Writ of Habeas Corpus is DENIED on the basis that it is untimely.

IT IS SO ORDERED.

DATED this 2nd day of August, 2005.

/s/ Michael W. Mosman

Michael W. Mosman
United States District Judge